

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

Derrick Darnell Payne  
Plaintiff

CASE NO.

3:11CV136-D-S

Benton County,  
v. Benton Co. Sheriff's Dept.,  
Marshall County, Marshall Co. Sheriff's Dept.,

Kelly McMillian, Alan Thompson, Sheriff Arnie McMullen  
(McMillian in official + individual capacities) (Sheriff McMullen in official + individual capacities)  
(Alan Thompson in individual capacity)

Defendant

## PRISONER'S COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT

1. The Plaintiff's full legal name, the name under which the Plaintiff was sentenced, the Plaintiff's inmate identification number, the Plaintiff's mailing address, and the Plaintiff's place of confinement are as follows:

A. Legal name:

Derrick Darnell Payne

B. Name under which sentenced:

Acquitted - Derrick Darnell Payne

C. Inmate identification number:

81110

D. Plaintiff's mailing address (street or post office box number, city, state, ZIP):

Desoto Co. Sheriff's Dept.311 West South St. Hernando, MS. 38632

E. Place of confinement:

311 West South St. Hernando, MS. 38632  
Desoto. Cor Jail

2. Plaintiff names the following person(s) as the Defendant(s) in this civil action:

Name:

~~Benton Co. Sheriff's Dept.~~ Benton Co. Sheriff's Dept.

Title (Superintendent, Sheriff, etc.):

County, Sheriff's Dept.

Defendant's mailing address (street or post office box number, city, state, ZIP):

Ashland, Ms.

Name: Marshall Co., <sup>Also</sup> Marshall Co. Sheriff's Dept  
 Title (Superintendent, Sheriff, etc.): County, Sheriff's Dept.  
 Defendant's mailing address (street or post office box number, city, state, ZIP): Marshall Co., Holly Springs, MS. 38635

Name: Kelly McMillian (Official + individual capacity)  
 Title (Superintendent, Sheriff, etc.): Detective  
 Defendant's mailing address (street or post office box number, city, state, ZIP): Marshall Co., Holly Springs, MS. 38635

Name: Alan Thompson (individual capacity)  
 Title (Superintendent, Sheriff, etc.): State investigator for Mississippi  
 Defendant's mailing address (street or post office box number, city, state, ZIP): Don't know (I think he resides in Olive Branch)

(If additional Defendants are named, provide on separate sheets of paper the complete name, title, and address information for each. Clearly label each additional sheet as being a continuation of Question 2).

3. Have you commenced other lawsuits in any other court, state or federal, dealing with or pertaining to the same facts that you allege in this lawsuit or otherwise relating to your imprisonment? ☐ Yes ☒ No

4. If you checked "Yes" in Question 3, describe each lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuit(s) on separate sheets of paper; clearly label each additional sheet as being a continuation of Question 4.

A. Parties to the lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

B. Court: N/A C. Docket No.: N/A

D. Judge's Name: N/A E. Date suit filed: N/A

F. Date decided: N/A G. Result (affirmed, reversed, etc.): N/A

5. Is there a prisoner grievance procedure or system in the place of your confinement? ☒ Yes ☐ No
6. If "Yes," did you present to the grievance system the same facts and issues you allege in this complaint? (See question 9, below). ☐ Yes ☒ No
7. If you checked "Yes" in Question 6, answer the following questions:

ND MISS. FORM P3, COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT (4/00)

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A. Does the grievance system place a limit on the time within which a grievance must be presented?

☐

Yes

☒

No

B. If you answered "Yes," did you file or present your grievance within the time limit allowed?

☐

Yes

☒

No

C. The court must find that you exhausted the prison's grievance system and administrative remedies before it can consider this Complaint. State everything you did to present your grievance(s). Be specific. Include the date(s) on which you filed or presented your grievances to prison officers; identify the officer(s). State your claim(s) exactly.

I am filing this complaint on a charge of Capital Murder, in which I was ~~found~~ found Not Guilty on July 3, 2009, in the Benton, Co. Courthouse.

D. State specifically what official response your grievance received. If the prison provides an administrative review of the decision on your grievance, state whether you applied for that review and what the result was.

On the complaint I'm filing, it shows I was found Not Guilty on July 3, 2009.

**Special Note:** Attach to this Complaint as exhibits complete copies of all requests you made for administrative relief through the grievance system, all responses to your requests or grievances, all administrative appeals you made, all responses to your appeals, and all receipts for documents that you have.

8. If you checked "No" in Question 6, explain why you did not use the grievance procedures or system:

I am filing this Complaint because of a Capital Murder charge brought forward by Benton Co. I was found NOT Guilty on this charge on July 3rd 2009.

9. Write below, as briefly as possible, the **facts** of your case. Describe how **each** Defendant is involved. Write the names of all other persons involved. Include dates and precise places of events. Do not give any legal argument or cite any legal authority. If you have more than one claim to present, number each claim in a separate paragraph. Attach additional pages only if necessary; label attached pages as being continuations of Question 9.

Plaintiff brings this claim for violations of 14<sup>th</sup> Amendment and 5<sup>th</sup> Amendment. Due Process Rights Procedural and Substantial, 8<sup>th</sup> Amendment Cruel and Unusual Punishment, Being Treated Unequally and Unfairly, Malicious Prosecution, Conspiring to violate the civil rights of Plaintiff.

On or Around ~~July 3rd 2009~~ July 3rd 2009, Defendant was found NOT Guilty in the Benton Co. Courthouse on the charges of Capital Murder. These charges were brought Maliciously and spearheaded by the Marshall Co. Sheriff's Dept. because the Defendant had been Acquitted in trial on charges of Bank Robbery in Marshall Co. Plaintiff's wife was incarcerated at The Marshall Co. Sheriff's Dept. on forgery charges. Records show that Det. Kelly McMillan questioned her numerous times concerning a one Reginald Walls, who had went missing in 2004. Now 2006, records show, they continually pressured Plaintiff's wife. Reginald's body was finally discovered and



records show, they pressured Plaintiff's wife to say Plaintiff did it. Records show they told her where the bones were found. They show they ~~threat~~ threatened to take her baby if she wouldn't work with them. — Continued on Additional Attached page (Apple 1)

10. State briefly exactly what you want the court to do for you. Do not make legal arguments. Do not cite legal authority.

The Plaintiff suffered mentally and emotionally because of the ~~Defendants~~ Defendants' actions and is suing for mental anguish, pain and suffering also.

The Plaintiff was faced with the Death Penalty in this case for over a year. The Plaintiff was diagnosed in 2010 with suffering from Multiple Personalities and ~~For~~ Traumatic Stress Disorder. The Plaintiff's level of medications were raised after he went through this prosecution.

Plaintiff requests Compensatory as well as Punitive damages, and also under the Supplemental Jurisdiction Act, requests State Tort damages for Malicious Prosecution, For violations of 14th, 5th, 8th Amendment Rights, Conspiring to violate civil rights of Plaintiff, Plaintiff requests → continued on Bear

This Complaint was executed at (location):

Desoto County Sheriff's Dept.

and I declare or certify or verify or state under penalty of perjury that this Complaint is true and correct.

Date: 10-13-2011

Derrick Payne

Plaintiff's Signature

— Apple 1

Page  
Apple 1

— The Defendants never accumulated any evidence against Derrick Payne, nothing but Plaintiff's wife's words, words that they forced her to say. In trial, the STATE investigator Alan Thompson stated that Plaintiff's wife, one Lakentra Payne, told them that the Plaintiff threw a pistol at a certain place. When Plaintiff's Lawyer asked them did they ever ~~see~~ search for the gun where she say he threw it, Alan Thompson stated "NO, they never searched for a weapon."

The body of Reginald Walls was discovered in Benton Co., However Detective McMillan ~~and~~ did the investigating in this case. Alan Thompson was called in. These are the ones which threatened Plaintiff's wife and forced her to say certain things. No officer from Benton County ever questioned her or Plaintiff. Benton County allowed these individuals to conduct this entire case, and prosecute it when they knew that Plaintiff had been acquitted on a bank robbery in Marshall Co.

Alan Thompson ~~is~~ state investigator. The sheriff of Marshall Co. Kenny Dickerson, before becoming Sheriff was also a state investigator. Him and Kenny Dickerson had a friendship from years back.

In trial, records show that witnesses were not questioned. At the Preliminary hearing Alan Thompson testified as to what Plaintiff's wife had told him, Plaintiff objecting all the while. This testimony which ~~was~~ used to bound Plaintiff over, was in direct violation of the husband wife privilege.

All ~~of the~~ defendants worked together to destroy Derrick Payne's life.

Continued from question #2. Defendants

Name: Sheriff Arnie McMullen, Benton Co., Ashland, MS.

Name: Benton County and/or Benton Co. Board of Supervisors  
Benton County, Ashland MS.

Name: Marshall County and/or Marshall Co. Board of Supervisors  
Holly Springs, MS. 38635

Note: The Plaintiff files against the Sheriff's Dept., the County,  
and the Board of Supervisors in order to file against the correct  
entity.

"Bear" - Continued from question 10 damages

As To Benton County, Benton Co. Sheriff's Dept, Benton Co. Board of Supervisors

Compensatory Damages in Amount: \$1,000,000  
one million dollars

Punitive Damages in Amount: \$500,000  
Five hundred thousand

Malicious Prosecution: \$500,000  
Five hundred thousand

As To Marshall County, Marshall Co. Sheriff's Dept., Marshall Co. Board of Supervisors

Compensatory Damages in Amount: \$1,000,000  
one million dollars

Punitive Damages in Amount: \$500,000  
Five hundred thousand

Malicious Prosecution: \$500,000  
Five hundred thousand

As To Arnie McMullen (Sheriff) (Official + individual capacities)

Compensatory Damages in Amount: \$1,000,000  
one million dollars

Punitive Damages in Amount: \$500,000  
Five hundred thousand

Malicious Prosecution: \$500,000  
Five hundred thousand



"Bear".

Page  
Bear

As To Kelly McMillian, (Official and Individual Capacities)

Compensatory Damages in Amount: \$1,000,000 —  
one million dollars

Punitive Damages in Amount: \$500,000  
five hundred thousand

Malicious Prosecution: \$500,000  
five hundred thousand

As To Alan Thompson ~~Individual Capacities~~ (Individual capacities)

Compensatory Damages in Amount: \$1,000,000  
one million dollars

Punitive Damages in Amount: \$500,000  
five hundred thousand

Malicious Prosecution: \$500,000  
five hundred thousand

Derrick Darnell Payne  
311 West South St.  
Hernando, MS, 38632

**RECEIVED**

OCT 17 2011

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

3973040704

Pro-se Law Clerk, U.S. District  
Court  
PO Box 704

Abigail Darnell Payne  
MS 38632  
311 West South St.  
Hernando, MS 38632

